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Via ECF

December 5, 2022

The Honorable Vernon S. Broderick, U.S.D.J.
United States District Court, S.D.N.Y.
40 Foley Square
New York, NY 10007

Re: *Toro v. SDDC Goods, LLC*, No. 1:22-cv-06629-VSB
Response to Court's Order Regarding Renewal of Motion to Dismiss Complaint

Dear Judge Broderick:

We represent Defendant SDDC Goods, LLC ("Defendant") in the above-referenced matter. We write in response to Your Honor's Order dated November 28, 2022 directing Defendant to "file a letter . . . deciding whether its motion to dismiss should be deemed moot without prejudice to refile a new motion to dismiss . . . , or if [the Court] should evaluate Defendant's current motion to dismiss in light of the facts alleged in the amended complaint." (ECF No. 16).


Although the Amended Complaint (ECF No. 15) filed by Plaintiff Andrew Toro does not correct the deficiencies in the original Complaint (ECF No. 1), Defendant intends to refile a new motion to dismiss to address the minimal changes in the Amended Complaint. Accordingly, Defendant agrees that its original motion to dismiss (ECF No. 9) should be deemed moot without prejudice to refile a new motion to dismiss in accordance with Federal Rule of Civil Procedure 15(a)(3).

Respectfully submitted,

s/ Mark Berkowitz

Mark Berkowitz

cc: All Counsel of Record via ECF

APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J. 12/6/2022

Defendant shall file a new motion to dismiss by December 16, 2022. The motion to dismiss at docket entry 9 is now moot.